IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 19TH NOVEMBER 2007 / 28TH KARTHIKA 1929

WP(C).No. 31788 of 2007(H)

PETITIONER:

JAYARAJ PROJECTS,
XXXIV/138E, 'KNOWELI - JAYARAJ',
NATIONAL HIGHWAY BYE-PASS, EDAPPALLY,
KOCHI-24, REPRESENTED BY ITS MANAGING PARTNER,
M.D.JAIRAJ, AGED 49 YEARS,
S/O LATE M.N.DAMODARAN.

BY ADV. SRI.PEEYUS A.KOTTAM

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY ITS
SECRETARY, LABOUR DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. ASST. LABOUR OFFICER GRADE I,
ASSESSING OFFICER,
(BUILDING AND OTHER CONSTRUCTION WORKERS'
WELFARE ACT 1996), ERNAKULAM.

BY GOVERNMENT PLEADER SRI. A.J. VARGHESE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)No.31788 OF 2007

Dated this the 19th day of November, 2007

JUDGMENT

The petitioner challenges Exts.P1 and P2 orders passed by the 2nd respondent under the Building and Other Construction Workers Welfare Cess Act, 1996. The petitioner's contention is that as per the Act and Rules, the petitioner is liable to pay cess on the cost of construction after the construction is over. Inspite of the same, the petitioner is prepared to pay the amounts covered by Exts.P1 and P2 provided the petitioner is given instalment facility.

2. This is opposed by the Government pleader with the help of the counter affidavit filed in the case. According to the learned Government pleader, the Act and Rules permit assessment of cess in advance even while the construction is going on.

3. I am not going into the merits of the contention in this writ petition, since the petitioner has expressed willingness to pay the amounts demanded, if instalment facility is granted to them.

3. In the facts and circumstances of the case, I feel that the petitioner can be permitted to pay the amounts demanded in instalments. Accordingly, I direct the 2nd respondent to permit the petitioner to pay the amounts covered by Exts.P1 and P2 in eight equal monthly instalments starting from 1.12.2007. Every subsequent instalment shall be paid on the 1st working day of every succeeding month. If the petitioner pays the instalments in time as directed above, further recovery proceedings pursuant to Exts.P1 and P2 shall be kept in abeyance. However, if the petitioner commits default in payment of any one of the instalment, it would be open to the 2nd respondent to recover the amounts in lump sum by appropriate recovery proceedings.

The writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

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